

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

JIMMIE LEWIS,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 05-013-GMS
)	Consolidated
)	
RAPHAEL WILLIAMS, et al.,)	
)	
Defendants.)	

MOTION FOR ENLARGEMENT OF TIME

COMES NOW, Commissioner Stanley Taylor, Warden Raphael Williams and Deputy Warden Mark Emig (“State Defendants Taylor, Williams and Emig”), by and through their undersigned counsel, and hereby move this Honorable Court (the “Motion”) to enter an Order, granting an enlargement of time pursuant to Rule 6(b)(2) of the Federal Rules of Civil Procedure, in which to file an answer in the above-captioned case. In support of the Motion, State Defendants Taylor, Williams and Emig state as follows:

1. Plaintiff Jimmie Lewis (“Plaintiff” or “Lewis”) is an inmate presently incarcerated at Delaware Correctional Center (“DCC”). Lewis is appearing *pro se* in this matter with leave to proceed *in forma pauperis*.

2. On January 11, 2005, Lewis filed a Complaint (D.I. 2) against over sixty (60) Defendants alleging various claims in the above-captioned matter. On the same date, Lewis also filed a Complaint in *Jimmie Lewis v. Stanley Taylor and staff, Raphael Williams and staff, and First Correctional Medical*, C.A. No. 05-051-GMS, requesting relief for various claims. Finally, on the same date, Lewis also filed a

Complaint in *Jimmie Lewis v. First Correctional Medical, et al.*, C.A. No. 05-052-GMS. This case was against approximately thirteen (13) Defendants and alleged various claims.

3. On April 8, 2005, the Plaintiff filed his First Amended Complaint against the Defendants in the above-captioned action. The First Amended Complaint provided further details of Lewis's claims against the Defendants. (D.I. 8). On November 10, 2005, Plaintiff filed his Second Amended Complaint in the above-captioned matter making similar allegations as in the First Amended Complaint but also adding new allegations. (D.I. 18).

4. On December 20, 2005, this Court issued an Order consolidating for all purposes the above-captioned matter, and the 05-051 and 05-052 actions. Further the Court deemed the above-captioned action the operative complaint in the consolidated action. (D.I. 22).

5. Between October 4 and 6, 2006, Plaintiff served the Defendants. The docket, however, seems to indicate that Plaintiff did not submit with the summonses a request for waiver of service. Therefore, State Defendants Taylor, Williams and Emig, along with the other State Defendants, were given only twenty (20) days to respond to the numerous allegations in Plaintiff's Initial Complaint, First Amended Complaint and Second Amended Complaint. At present, the docket indicates that a response is due from State Defendants Taylor, Williams and Emig, as well as the other State Defendants, by as early as October 24, 2006 and as late as October 26, 2006.

6. The Attorney General's office was served with Lewis's pleadings on October 5, 2006. (D.I. 91). On October 11, 2006, after the case was assigned, the undersigned counsel began mailing letters to those Defendants that are State employees

regarding whether they wish for the Department of Justice to represent them in this matter.

7. Due to the enormity of the number of Defendants involved, the State is unable to determine, within such a short period of time, which of the Defendants wish to be represented by the State and which wish to seek outside counsel. Further, due to the breadth of Plaintiff's Complaints and the number of allegations involved, State Defendants Taylor, Williams and Emig, as well as the other State Defendants, are unable to prepare a timely response to the Complaints. For these reasons, State Defendants Taylor, Williams and Emig request an extension of time of forty-five (45) days, from October 20, 2006 until on or before December 4, 2006, in which to file a response to Plaintiff's Initial Complaint, First Amended Complaint and Second Amended Complaint.

8. This is State Defendants Taylor, Williams and Emig first request for an extension of time.

9. There is no trial date scheduled in this case.

[Remainder of page intentionally left blank]

WHEREFORE, State Defendants Taylor, Williams and Emig respectfully request that the Court grant the Motion and enter an Order, substantially in the form attached hereto, enlarging State Defendants Taylor, Williams and Emig, as well as the other State Defendants', time to file a response to Plaintiff's Initial Complaint, First Amended Complaint and Second Amended Complaint until on or before December 4, 2006.

**STATE OF DELAWARE
DEPARTMENT OF JUSTICE**

/s/ Erika Y. Tross

Erika Y. Tross (#4506)
Deputy Attorney General
820 North French Street, 6th Floor
Wilmington, Delaware 19801
(302)577-8400

Attorney for State Defendants
Stanley Taylor, Raphael Williams
and Mark Emig

Dated: October 20, 2006

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CERTIFICATION OF COUNSEL PURSUANT TO LOCAL RULE 7.1.1

The undersigned counsel hereby certifies, pursuant to Rule 7.1.1 of the Local Rules for the District of Delaware, that:

1. The Plaintiff is an inmate incarcerated at Delaware Correctional Center in Smyrna, Delaware.
2. The Plaintiff is not able to be reached by telephone, therefore counsel has spent no time in attempting to reach an agreement on the subject of the Motion for Enlargement of Time.
3. The undersigned counsel assumes that the Motion is opposed.

**STATE OF DELAWARE
DEPARTMENT OF JUSTICE**

/s/ Erika Y. Tross

Erika Y. Tross (#4506)
Deputy Attorney General
820 North French Street, 6th Floor
Wilmington, Delaware 19801
(302)577-8400
Attorney for State Defendants Stanley
Taylor, Raphael Williams and Mark Emig

Dated: October 20, 2006

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C.A. No. 05-013-GMS
Consolidated

ORDER

Upon the Motion For Enlargement Of Time (the “Motion”); and it appearing that good and sufficient notice of the Motion has been given; and after due deliberation thereon:

IT IS HEREBY ORDERED as follows:

1. The Motion is **GRANTED**.
2. State Defendants Taylor, Williams and Emig, as well as the other State Defendants, have until on or before December 4, 2006 to file an Answer to Plaintiff’s Initial Complaint, First Amended Complaint and Second Amended Complaint.

SO ORDERED this _____ day of _____, 2006.

The Honorable Gregory M. Sleet
United States District Court Judge

CERTIFICATE OF SERVICE

I, Erika Y. Tross, Esq., hereby certify that on October 20, 2006, I caused a true and correct copy of the attached *Motion for Enlargement of Time* to be served on the following individual in the form and manner indicated:

NAME AND ADDRESS OF RECIPIENT(S):

Jimmie Lewis
SBI # 506622
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

MANNER OF DELIVERY:

- ☐ One true copy by facsimile transmission to each recipient
- ☒ Two true copies by first class mail, postage prepaid, to each recipient
- ☐ Two true copies by Federal Express
- ☐ Two true copies by hand delivery to each recipient

/s/ Erika Y. Tross
Erika Y. Tross (#4506)
Deputy Attorney General
Delaware Department of Justice
Carvel State Office Building
820 N. French Street, 6th Floor
Wilmington, DE 19801
302-577-8400